

ELECTRONICALLY FILED
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Counsel for the Official Committee Of
 Equity Security Holders Of USA Capital First Trust Deed Fund, LLC

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:) BK-S-06-10725-LBR
 USA COMMERCIAL MORTGAGE COMPANY,) Chapter 11
 Debtor.)

In re:) BK-S-06-10726-LBR
 USA CAPITAL REALTY ADVISORS, LLC,) Chapter 11
 Debtor.)

In re:) BK-S-06-10727-LBR
 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,) Chapter 11
 Debtor.)

In re:) BK-S-06-10728-LBR
 USA CAPITAL FIRST TRUST DEED FUND, LLC,) Chapter 11
 Debtor.)

In re:) BK-S-06-10729-LBR
 USA SECURITIES, LLC,) Chapter 11
 Debtor.)

Affects)

- ☒ All Debtors)
☐ USA Commercial Mortgage Co.)
☐ USA Securities, LLC)
☐ USA Capital Realty Advisors, LLC)
☐ USA Capital Diversified Trust Deed)
☐ USA First Trust Deed Fund, LLC)

Date: October 30, 2006
 Time: 9:30 a.m.

**DECLARATION OF MATTHEW KVARDA IN SUPPORT OPPOSITION OF THE OFFICIAL
 COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED
 FUND, LLC TO UNITED STATES TRUSTEE'S MOTION TO CONVERT CASES TO
PROCEEDINGS UNDER CHAPTER 7 (AFFECTS ALL DEBTORS)**

1 I, Matthew Kvarda, declare as follows:

2 1. I am a director of Alvarez & Marsal, LLC, financial and real estate advisors
3 to the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC
4 (the "FTDF Committee").

5 2. The following facts are personally known to me and/or based on my
6 personal observations. If called to testify thereto, I could and would do so, under oath.

7 3. In connection with the above-captioned cases (the "Chapter 11 Cases"), I
8 and the members of the engagement team have worked closely with the members of the FTDF
9 Committee and its other professionals regarding the development of a workable exit strategy which
10 maximized the potential return to investors in USA Capital First Trust Deed Fund, LLC (the
11 "FTDF").

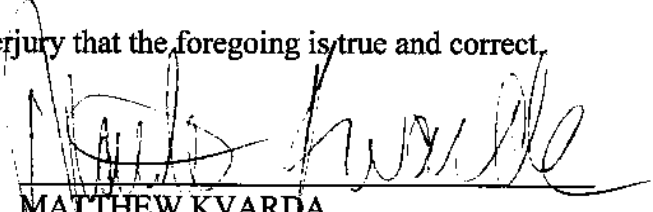
12 4. The four official committees appointed in the Chapter 11 Cases (the
13 "Committees") have spent nearly three months negotiating a term sheet outlining the terms of a
14 chapter 11 plan (the "Joint Plan Term Sheet"). The Joint Plan Term Sheet represents a consensual
15 resolution of myriad intercompany claims and disputes. The Committees are on the verge of
16 reaching a final agreement, with only a handful of issues left to resolve, that will result in a joint
17 plan of reorganization that will maximize value for all of the Debtors, their estates, and those
18 parties who have directly lent funds to borrowers through USACM (the "Direct Lenders").

19 5. The Debtors and the Committees have made substantial progress in
20 negotiating the sale of certain assets (the "Property") set forth in the Asset Purchase Agreement
21 dated October 19, 2006 between the Debtors and SPCP, Group, LLC ("Silver Point"). The sale
22 process is now moving into its crucial final stage, in which potential bidders will be determining if
23 and how much they will be bidding for the Property. To convert the Chapter 11 Cases to chapter 7
24 at this time would irrevocably damage the sale process. Not only would bidding be chilled, but
25 Silver Point's stalking horse bid may also be jeopardized.

26 6. Conversion of the Chapter 11 Cases to chapter 7 would be highly disruptive
27 to the sale of the Property. Any substantial delay of the auction of the Property, such as the delay
28 conversion would cause, will severely chill the bidding process. Additionally, liquidating the

1 Debtors' assets in a piecemeal fashion, as is likely to occur in chapter 7, will make it much more
2 difficult for potential purchasers to capitalize on the synergies that exist in purchasing the Property
3 in one package.

4
5 I declare under penalty of perjury that the foregoing is true and correct.

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8 
MATTHEW KVARDA

9 Alvarez & Marsal, LLC
10 Financial and real estate advisor to the Official
11 Committee of Equity Security Holders of USA
12 Capital First Trust Deed Fund, LLC
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